

**MTC: NEW INDEPENDENT ESTIMATE FINDS U.S. HOUSE
TAX BILL POSES UP TO \$8 BILLION THREAT TO STATE TAX REVENUES**

Kansas Secretary of Revenue Joan Wagon Warns Measure Runs Roughshod Over Federalism, Would Be Unfair to Small Business Taxpayers and Spur More Tax Sheltering, Costly Litigation.

WASHINGTON, D.C.///September 27, 2005///Citing a new estimate from the National Governors Association (NGA) of a major drain on state tax coffers of up to \$8 billion, Kansas Secretary of Revenue Joan Wagon is to testify today before the Subcommittee on Commercial and Administrative Law of the U.S. House Judiciary Committee in opposition to a measure (H.R. 1956) that would effectively gut state business activity taxation (BAT) of large multistate corporations.

Wagon, who also is the chair of the Multistate Tax Commission, points to a new NGA estimate that H.R. 1956 could strip states of \$4.8 billion-\$8.0 billion in much needed business activity tax revenues, depending on how widely the new law would be used by businesses.

In her testimony, Wagon says: "Imagine what will happen to these states when an estimated \$6.6 billion (the midpoint of the estimated range) in state revenues vanishes. This represents an estimated 11.4 percent of business activity tax collections by states as companies restructure to take advantage of the benefits authorized by H.R. 1956 ... Our research says this threat to our states' tax bases is real – not some manipulation of numbers for shock value in a public hearing. The NGA report says the tax loss is too large to ignore."

The Kansas Revenue Commissioner adds: "Kansas alone could easily lose \$31.2 million, or more, each year under H.R. 1956, which is a large loss in our small state. We are coming out of the recession slowly, and are under court order to increase funding for schools dramatically. The state cannot afford any narrowing of our tax base. These tax breaks for a select group of large companies would simply shift that tax burden back onto property taxes, sales taxes or income taxes paid by individuals and small businesses in our states. The only other option for states would be a dramatic curtailment of essential state services, such as schools, (and) health and safety programs ..."

The threat posed by H.R. 1956 to state revenues is particularly troubling, according to Wagon, since H.R. 1956 will not accomplish what it backers claim that it will do. In her testimony, Wagon notes: "Does it ensure fairness? No. It would lead to more tax sheltering activity, putting taxpaying businesses and individuals at a decided disadvantage. Does it minimize litigation? No. H.R. 1956 is anything but clear and simple. Any new set of rules is an invitation to litigate, but this change would invalidate forty years of judicial interpretation ... for no good reason. Will it grow the economy? No. The economy suffers when businesses devote resources to reorganizing and restructuring to take advantage of tax laws instead of improving productivity. Will it ensure a level playing field? No. In my state of Kansas and in other states as well, smaller, more local firms will not have the opportunity to take advantage of the tax planning opportunities that larger, multistate firms would use under H.R. 1956."

The attack on BAT would upend over two centuries of Congress respecting the prerogatives of state lawmakers. Wagon states: "H.R. 1956 runs roughshod over federalism, placing Congress in

the position of imposing a smorgasbord of federally-mandated state tax exemptions that would preempt hundreds of existing state and local laws and rules. For almost 230 years, while maintaining its jurisdiction over interstate commerce, Congress has consistently respected the right of states to raise revenues. H.R. 1956 would overturn the current constitutional “doing business” standard for state business activity taxes.”

The Kansas Revenue Commissioner is to conclude her testimony with a call for recognition of the important strides made in recent years by state tax officials. The MTC chair points out: “There is no compelling need for federal preemption of state and local law by switching from a system that works to a system that does not work. The Multistate Tax Commission, and its participating states, are always at work promoting fairness and uniformity. As a report from the Andrew Young School of Policy Studies at Georgia State University recently concluded, ‘To the credit of member states united by the Compact, the MTC has faithfully pushed the need for uniformity and cooperation against the competitive nature of states and the forceful challenge of corporate taxpayers’.”

The full text of the Wagon testimony is available online at <http://www.mtc.gov>. The NGA estimate of the impact of H.R. 1956 on state revenues may be found at <http://www.nga.org/Files/pdf/0509BAT.PDF>.

ABOUT JOAN WAGNON

Joan Wagon is Secretary of Revenue for the State of Kansas. Governor Kathleen Sebelius appointed her to the post on January 13, 2003. Prior to her appointment she was president of Central National Bank, Topeka, a position she took after leaving office as mayor of Topeka, Kansas on April 10, 2001. Wagon was elected mayor of Topeka, KS on April 1, 1997 and was the first woman to serve as mayor since the city’s incorporation in 1857. Joan Wagon also served as a legislator from Topeka for 12 years, with six terms from 1983 – 1994 in the Kansas House of Representatives.

ABOUT THE MULTISTATE TAX COMMISSION

Created by an interstate compact, the Multistate Tax Commission encourages tax practices that reduce administrative costs for taxpayers and States alike, develops and recommends uniform laws and regulations that promote proper state taxation of multistate and multinational enterprises, encourages business compliance with state tax laws through education, negotiation and enforcement, and protects state fiscal authority in Congress and the courts. Of the 47 states (including the District of Columbia) that participate in the Commission, 21 are Compact Members, five are Sovereignty Members, 18 are Associate Members, and three are Project Members.

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